

REMARKS

The office action of October 2, 2003 has been reviewed and its contents carefully noted. Reconsideration of this case, as amended, is requested. Claims 1 through 12, and 17-20 remain in this case, claims 13-16 are withdrawn from prosecution by this response.

Restriction Requirement

The Examiner has made a restriction requirement and has identified two groups as follows:

Group I - recited in claims 1-12 and 17-20, drawn to a method of making a chain link, classified in class 148, subclass 595 +.

Group II - recited in claims 13-16, drawn to a chain link, classified in class 256, subclass 32+.

Applicant elects Group I, recited in claims 1-12 and 17-20 drawn to a method of making a chain belt. This requirement for restriction and election as best understood are respectfully traversed.

Claims 13 through 16 are each dependent on claims in Group I. For example, claim 13 is an article which is made by the method of claim 1, claim 14 is dependent on the method of claim 12, claim 15 is dependent on the method of claim 1, and claim 16 is dependent on claim 3 which dependent on the method of claim 1. Each of the claims in Group II are dependent on the methods in Group I and cannot be carried out by methods other than those listed in the claims in which they are dependent and therefore there could not be considered two distinct inventions or pose a serious burden on the Examiner.

The MPEP states the following with regard to stating a prima facie case of restriction between patentably distinct inventions:

“There are two criteria for a proper requirement for restriction between patentably distinct inventions:

1) The inventions must be independent (see MPEP 802.01, 806.04, 808.01) **or distinct as claimed** (see MPEP 806.05-806.05(i)); and

2) There must be a **serious burden on the examiner** if restriction is not required (see MPEP 803.02, 806.04(a) - 806.04(j), 808.01(a) and 808.02).

GUIDELINES

Examiners must provide reasons and/or examples to support conclusions, but need not cite documents to support the requirement in most cases. **Where plural inventions are capable of being viewed as related in two ways, both applicable criteria for distinctness must be demonstrated to support a restriction requirement...**For purposes of the initial requirement a serious burden on the examiner may be prima facie shown if the examiner shows by appropriate explanation either separate classification, separate status in the art, or a different field of search as defined in MPEP 808.02.” (MPEP 803)

All of the claims recite related inventions in that each recites or is dependent on a method of making a chain link. The Examiner did not make a prima facie case to support a restriction requirement. Both criteria for restriction must be established and the Examiner has not alleged neither much less shown any burden or distinctiveness in the claimed inventions. The Examiner merely states that the applicant provided many different examples of the invention. This does not mean that there are “distinct” inventions as defined in the MPEP. Furthermore, distinct inventions do not create a burden on the Examiner that is sufficient to justify a restriction requirement without a showing of the need for separate searches.

All of the inventions would be searched within the same classes and subclasses. Even if some of the inventions would be classified separately, a thorough search of the prior art for any one of the inventions would include the classes and subclasses of the other inventions.

The Applicant requests that the restriction requirement be withdrawn. If the Examiner does not withdraw the election the Applicant requests that the Examiner state the restriction in complete terms, so that the Applicant may properly respond to the requirement. If the Examiner disagrees, or believes for any other reason that direct contact with Applicants' attorney would

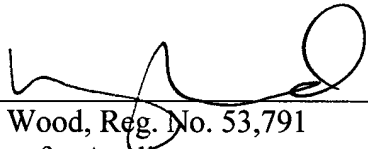
advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

Conclusion

Applicant believes the claims, as amended, are patentable over the prior art, and that this case is now in condition for allowance of all claims therein. Such action is thus respectfully requested. If the Examiner disagrees, or believes for any other reason that direct contact with Applicants' attorney would advance the prosecution of the case to finality, he is invited to telephone the undersigned at the number given below.

"Recognizing that Internet communications are not secured, I hereby authorize the PTO to communicate with me concerning any subject matter of this application by electronic mail. I understand that a copy of these communications will be made of record in the application file."

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